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REFERENCE TITLE: exemption; service connected disability

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

SB 1056

Introduced by
Senators Blendu, Bee, Harper, Waring; Gould, Hellon, Tibshraeny,
Verschoor; Representative Nelson

AN ACT

AMENDING SECTION 42-11111, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 11, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-11131; RELATING TO PROPERTY TAX EXEMPTIONS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 42-11111, Arizona Revised Statutes, is amended to read:

42-11111. Exemption for property of widows, widowers and disabled persons

A. The property of widows, widowers and disabled persons who are residents of this state is exempt from taxation to the extent allowed by article IX, sections 2, 2.1, 2.2 and 2.3, Constitution of Arizona, and subject to the conditions and limitations prescribed by this section.

B. Pursuant to article IX, section 2.3, Constitution of Arizona, the exemptions from taxation under this section are allowed in the amount of:

1. Three thousand dollars if the person's total assessment does not exceed twenty thousand dollars.

2. No exemption if the person's total assessment exceeds twenty thousand dollars.

C. On or before December 31 of each year, the department shall increase the total assessment limitation amounts under subsection B of this section based on the average annual percentage increase, if any, in the GDP price deflator as defined in section 41-563.

D. For the purpose of determining the amount of the allowable exemption pursuant to subsection B of this section, the person's total assessment shall not include the value of any vehicle that is taxed under title 28, chapter 16, article 3.

E. Pursuant to article IX, section 2.3, Constitution of Arizona, to qualify for this exemption, the total income from all sources of the claimant and the claimant's spouse and the income from all sources of all of the claimant's children who resided with the claimant in the claimant's residence in the year immediately preceding the year for which the claimant applies for the exemption shall not exceed:

1. Thirteen thousand two hundred dollars if none of the claimant's children under eighteen years of age resided with the claimant in the claimant's residence.

2. Eighteen thousand eight hundred forty dollars if one or more of the claimant's children residing with the claimant in the claimant's residence ~~was~~ WERE either:

(a) Under eighteen years of age.

(b) Totally and permanently, ~~—~~ physically or mentally disabled, as certified by competent medical authority as provided by law.

F. For the purposes of subsection E of this section, "income from all sources" means the sum of the following, but excluding the items listed in subsection G of this section:

1. Adjusted gross income as defined by the department.

2. The amount of capital gains excluded from adjusted gross income.

3. Nontaxable strike benefits.

4. Nontaxable interest that is received from the federal government or any of its instrumentalities.

1 5. Payments that are received from a retirement program and paid by:

2 (a) This state or any of its political subdivisions.

(b) The United States through any of its agencies, instrumentalities or programs, except as provided in subsection G of this section.

5 6. The gross amount of any pension or annuity that is not otherwise
6 exempted.

7 G. Notwithstanding subsection F of this section, "income from all
8 sources" does not include monies received from:

9 1. Cash public assistance and relief.

10 2. Railroad retirement benefits.

11 3. Payments under the federal social security act (49 Stat. 620).

12 4. Payments under the unemployment insurance laws of this state.

13 5. Payments from veterans disability pensions.

14 6. Workers' compensation payments.

15 7. "Loss of time" insurance.

16 8. Gifts from nongovernmental sources, surplus foods or other relief
17 in kind supplied by a governmental agency.

18 H. The exemption described by this section applies independently to:

19 1. The assessed valuation determined for secondary property tax
20 purposes from the full cash value of the property and improvements owned by
21 the individual.

22 2. The assessed valuation determined for primary property tax purposes
23 from the limited property value of the property and improvements owned by the
24 individual.

25 I. Any dollar amount of exemption that is unused in a tax year against
26 the limited property value of property and improvements owned by the
27 individual may be applied for the tax year against the value of personal
28 property subject to special property taxes including the taxes collected
29 pursuant to title 5, chapter 3, article 3 and title 28, chapter 16,
30 article 3.

31 J. An individual is not entitled to property tax exemptions in the
32 aggregate that exceed the maximum allowed to a widow, widower or disabled
33 person even if the person is eligible for an exemption in more than one
34 category. A PERSON WHO RECEIVES AN EXEMPTION UNDER THIS SECTION IS NOT
35 ELIGIBLE FOR EXEMPTION UNDER SECTION 42-11131.

36 Sec. 2. Title 42, chapter 11, article 3, Arizona Revised Statutes, is
37 amended by adding section 42-11131, to read:

38 42-11131. Exemption for property of persons with service
39 connected disability

40 A. THE PRIMARY RESIDENCE OF A RESIDENT OF THIS STATE WHO IS DISABLED
41 AS A RESULT OF SERVICE IN THE ARMED FORCES OF THE UNITED STATES IS EXEMPT
42 FROM TAXATION TO THE EXTENT ALLOWED BY ARTICLE IX, SECTION 2, CONSTITUTION OF
43 ARIZONA, AND SUBJECT TO THE CONDITIONS AND LIMITATIONS PRESCRIBED BY THIS
44 SECTION.

45 B. THE AMOUNT OF THE EXEMPTION IS A PERCENTAGE OF THE ASSESSED
46 VALUATION OF THE PRIMARY RESIDENCE EQUAL TO THE DEGREE OF THE DISABLED

PERSON'S SERVICE CONNECTED DISABILITY. THE ASSESSOR MAY REFER TO SCHEDULES FOR RATING DISABILITIES ESTABLISHED AND ADOPTED BY THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, OR ITS SUCCESSOR.

C. IF A DISABLED PERSON WHO QUALIFIED FOR EXEMPTION UNDER THIS SECTION DIES, THE SURVIVING SPOUSE IS ELIGIBLE FOR THE EXEMPTION ON THE SAME PROPERTY AND SUBJECT TO THE SAME CONDITIONS AS LONG AS THE SPOUSE CONTINUES TO RESIDE ON THE SAME PROPERTY AND REMAINS UNMARRIED.

D. PURSUANT TO ARTICLE IX, SECTION 2.3, CONSTITUTION OF ARIZONA, TO QUALIFY FOR THIS EXEMPTION, THE HOUSEHOLD INCOME FROM ALL SOURCES IN THE YEAR IMMEDIATELY PRECEDING THE YEAR FOR WHICH THE DISABLED PERSON, OR A SURVIVING SPOUSE, APPLIES FOR THE EXEMPTION MAY NOT EXCEED:

1. THIRTEEN THOUSAND TWO HUNDRED DOLLARS:

(a) IF THE DISABLED PERSON OR SURVIVING SPOUSE WAS THE SOLE RESIDENT IN THE HOUSEHOLD FOR THE FULL YEAR.

(b) IN ANY OTHER HOUSEHOLD SITUATION WHERE PARAGRAPH 2 DOES NOT APPLY.

2. EIGHTEEN THOUSAND EIGHT HUNDRED FORTY DOLLARS IF EITHER:

(a) THE DISABLED PERSON'S SPOUSE RESIDED WITH THE PERSON IN THE HOUSEHOLD.

(b) ONE OR MORE OF THE DISABLED PERSON'S CHILDREN, RESIDING WITH THE PERSON OR A SURVIVING SPOUSE IN THE HOUSEHOLD, WERE:

(i) UNDER EIGHTEEN YEARS OF AGE.

(ii) TOTALLY AND PERMANENTLY PHYSICALLY OR MENTALLY DISABLED, AS CERTIFIED BY COMPETENT MEDICAL AUTHORITY AS PROVIDED BY LAW.

E. A PERSON WHO RECEIVES AN EXEMPTION UNDER THIS SECTION IS NOT ELIGIBLE FOR EXEMPTION UNDER SECTION 42-11111.

F. A PERSON WHOSE PROPERTY IS EXEMPT UNDER THIS SECTION, OR THE PERSON'S REPRESENTATIVE, SHALL NOTIFY THE COUNTY ASSESSOR IN WRITING OF ANY EVENT THAT DISQUALIFIES THE PROPERTY FROM FURTHER EXEMPTION. REGARDLESS OF WHETHER THE PERSON OR REPRESENTATIVE NOTIFIES THE ASSESSOR AS REQUIRED BY THIS SUBSECTION, THE PROPERTY IS SUBJECT TO TAX AS PROVIDED BY LAW FROM THE DATE OF DISQUALIFICATION, INCLUDING INTEREST, PENALTIES AND PROCEEDINGS FOR TAX DELINQUENCIES. DISQUALIFYING EVENTS INCLUDE:

1. THE QUALIFYING PERSON'S DEATH.

2. THE REMARRIAGE OF A SURVIVING SPOUSE.

3. THE PERSON'S INCOME FROM ALL SOURCES EXCEEDING THE LIMITS PRESCRIBED BY SUBSECTION D OF THIS SECTION.

4. MOVING TO ANOTHER PRINCIPAL RESIDENCE.

5. THE CONVEYANCE OF TITLE TO THE PROPERTY TO ANOTHER OWNER.

G. FOR THE PURPOSES OF SUBSECTION D OF THIS SECTION, "HOUSEHOLD INCOME" MEANS THE SUM OF THE FOLLOWING WITH RESPECT TO ALL PERSONS RESIDING IN THE HOUSEHOLD DURING THE YEAR, BUT DOES NOT INCLUDE THE ITEMS LISTED IN SUBSECTION H OF THIS SECTION:

1. ADJUSTED GROSS INCOME AS DEFINED BY THE DEPARTMENT.

2. THE AMOUNT OF CAPITAL GAINS EXCLUDED FROM ADJUSTED GROSS INCOME.

3. NONTAXABLE STRIKE BENEFITS.

1 4. NONTAXABLE INTEREST THAT IS RECEIVED FROM THE FEDERAL GOVERNMENT OR
2 ANY OF ITS INSTRUMENTALITIES.

3 5. PAYMENTS THAT ARE RECEIVED FROM A RETIREMENT PROGRAM AND PAID BY:

4 (a) THIS STATE OR ANY OF ITS POLITICAL SUBDIVISIONS.

5 (b) THE UNITED STATES THROUGH ANY OF ITS AGENCIES, INSTRUMENTALITIES
6 OR PROGRAMS, EXCEPT AS PROVIDED IN SUBSECTION H OF THIS SECTION.

7 6. THE GROSS AMOUNT OF ANY PENSION OR ANNUITY THAT IS NOT OTHERWISE
8 EXEMPTED.

9 H. NOTWITHSTANDING SUBSECTION G OF THIS SECTION, "HOUSEHOLD INCOME"
10 DOES NOT INCLUDE MONIES RECEIVED FROM:

11 1. CASH PUBLIC ASSISTANCE AND RELIEF.

12 2. RAILROAD RETIREMENT BENEFITS.

13 3. PAYMENTS UNDER THE FEDERAL SOCIAL SECURITY ACT (49 STAT. 620).

14 4. PAYMENTS UNDER THE UNEMPLOYMENT INSURANCE LAWS OF THIS STATE.

15 5. PAYMENTS FROM VETERANS DISABILITY PENSIONS.

16 6. WORKERS' COMPENSATION PAYMENTS.

17 7. "LOSS OF TIME" INSURANCE.

18 8. GIFTS FROM NONGOVERNMENTAL SOURCES, SURPLUS FOODS OR OTHER RELIEF
19 IN KIND SUPPLIED BY A GOVERNMENTAL AGENCY.

20 Sec. 3. Conditional enactment

21 A. This act is not effective unless the Constitution of Arizona is
22 amended by vote of the people at the next general election to authorize
23 property tax exemptions for persons with a service connected disability.

24 B. The enactment of any provision of this act conditioned on the
25 results of the election does not constitute a submission of any provision of
26 this act to the voters under the power of the referendum.